

BUFFALO-RED RIVER WATERSHED DISTRICT

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PROJECT NO. 77, CLAY COUNTY DITCH NO. 51-LATERAL 3 MINUTES FOR ABANDONMENT HEARING October 11, 2016

Pursuant to Minnesota Statutes Annotated (M.S.A.) 103E.811, and any other applicable statutes, the Board of Managers, Buffalo-Red River Watershed District (BRRWD), held an Abandonment Hearing for the Proposed Lateral No. 3 to Clay County Ditch (C.D.) No. 51 on Tuesday, October 11, 2016, at 6:45 PM in the BRRWD Office in Barnesville. BRRWD Managers present were: Gerald L. Van Amburg, Mark T. Anderson, and John E. Hanson. Other attending included: Bruce E. Albright, BRRWD Administrator, and Erik S. Jones, District Engineer, Houston Engineering, Inc. (HEI); Roger Minch, Attorney, Serkland Law Firm; Lois Minch (Petitioner), and Greg Masteller, Minnesota Department of Transportation (MNDOT).

BRRWD Chairman Gerald L. Van Amburg called the hearing to order at 6:45 PM. He announced that the proceedings were being recorded to aid in the preparation of the minutes, and passed around a sign-up sheet to record attendance.

BRRWD Administrator Bruce E. Albright provided a brief history of the proposed project and the development process. The proposed project consists of establishing Lateral No. 3 to Clay C.D. No. 51 starting in Section 33, Kragnes Township, and following a natural drainage way downstream through Sections 28 and 21, Kragnes Township, where the water would have been diverted east along the north side of County Road No. 96 (120th AVE N) to County Ditch No. 51 (outlet). The preliminary hearing (M.S.A. 103E.261) for the proposed project was held on 01/05/15, and the final hearing (M.S.A. 103E.335) was held on August 27, 2015. An Order to establish the project, adopting the Engineer's and Viewers' Reports, was made by the Board of Managers, BRRWD, on September 12, 2015. On October 9, 2015, an appeal of the Order was filed by Robert Norby, which was subsequently dismissed. Norby also filed a lawsuit against the BRRWD regarding the proposed project, which is still ongoing. A petition for the abandonment of the project was filed by Minch Family LLLP on September 8, 2016, citing that due to recent changes in the area, the project is no longer needed or of public benefit and utility. Minch Family LLLP purchased the property where the project would have been constructed from Robert Norby on the west side of Trunk Highway No. 75 in the NE1/4, Section 28, Kragnes Township. Minch Family LLLP has applied for and received a permit from the BRRWD to remove diking and restore the historic waterway on this property, so there is no longer a need for the project. The petitioner has agreed to reimburse the BRRWD for any remaining project costs.

Attorney Roger Minch, representing the Petitioner, discussed the acquisition of the Norby property, which prompted the abandonment of Project No. 77, as there was no longer a need for a legal ditch system. He also discussed conversations he had with his neighboring landowners regarding the work he plans to complete via BRRWD Permit No. 16-067 in the SE1/4 and NE1/4, Section 28, Kragnes Township. The Board fixed the current project account balance as of 9/12/16 at \$13,593.02, which the Minch Family LLLP has agreed to pay.

Chair Van Amburg asked if there was any further testimony. There being none, he noted that the Board lacked a quorum to move forward with the Order at this time. When there is a quorum later tonight at the BRRWD regular meeting to be held at 7:00 PM, the Board will make the Order to abandon of Project No. 77 at that time. There being no further testimony, **motion** by Hanson to adjourn the hearing. **Seconded** by Anderson. **Approved.** Chair Van Amburg adjourned the hearing at 7:00 PM.